



Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. 652

IN THE MATTER
OF
RUTHANNE BOSSI

DISPOSITION AGREEMENT

The State Ethics Commission and Ruthanne Bossi enter into this Disposition Agreement pursuant to Section 5 of the Commission's *Enforcement Procedures*. This agreement constitutes a consented-to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, ' 4(j). On October 18, 2000, the Commission initiated, pursuant to G.L. c. 268B, ' 4(a), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Bossi. The Commission has concluded its inquiry and, on October 16, 2001, found reasonable cause to believe that Bossi violated G.L. c. 268A, ' ' 19 and 23(b)(2). The Commission and Bossi now agree to the following findings of fact and conclusions of law:

1. Bossi was during the time relevant, the Town of Billerica inspector of buildings. As such, she was a municipal employee as that term is defined in G.L. c. 268A, §1.
2. In her position as inspector of buildings, Bossi was in charge of running the building department.
3. As a matter of general practice, Bossi as inspector of buildings reviewed all building permit applications to ensure that the file was complete before any action was taken. Her review included ensuring compliance with zoning, flood plain and historic district requirements. Essentially, the zoning review involved checking for proper lot size, frontage, and setbacks, and making so-called "grandfathering" determinations, which involved deciding whether a non-conforming lot was buildable because it had previously appeared on an approved plan subject to a prior, more lenient zoning ordinance.

After Bossi completed a permit application review, she would either sign off with her initials indicating her approval, send it back because the paperwork was incomplete, note for the inspector to obtain additional information prior to issuing the permit, or deny the application because of a zoning problem that would require a variance. If Bossi approved the application, she would pass the file to one of the building department inspectors for building code compliance review and to issue a foundation permit. After the foundation was completed, the builder would submit an as-built plan, called a certified building plan, certifying the location of the foundation. Bossi would review that plan for zoning compliance, and assuming no zoning issue was found, would initial the plan and pass the file back to the inspectors to issue the structural building permit.

4. Bossi was suspended as inspector of buildings on December 7, 1998 because of allegations

of misconduct in office. She was terminated by the town on September 3, 1999.

Participating in her Brother's Building Department Matters

5. Bossi's brother George Allen has been a developer in Billerica since the late 1970s .
6. By letter dated March 1, 1991, the State Ethics Commission wrote Bossi notifying her that §19 of the conflict of interest law, G.L. c. 268A, would prohibit her from participating as a building department official in building department matters involving her brother George. And by letter dated July 1, 1992, the Commission, at Bossi's request provided Bossi with a more detailed explanation of how §19 would apply to her involvement in a matter affecting property on which her brother held a mortgage .
7. Notwithstanding these letters from the Commission, Bossi continued to follow her practice as described above even when the matters involved her brother. After receiving these letters, however, Bossi did make one change in her practice when her brother's matters were involved. Rather than signing her initials indicating her approval, she would mark the application or plan in a corner with a squiggle. Her subordinate inspectors understood that the squiggle signified that Bossi had reviewed and approved the application or plan as the case may be.
8. Between 1995 and December 1998¹ when she was suspended, Bossi did the following as inspector of buildings regarding her brother's matters:
 - Reviewed 14 single-family house construction permit applications filed by her brother. These reviews involved her checking that the application was complete, and that:
 - (a) as to seven of those applications, determining that there were no zoning, flood plain or historic district issues, and then indicating with a squiggle that she had completed that review to her satisfaction, and all that remained was for an inspector to review the application for building code compliance;
 - (b) as to one application, determining that there were no zoning, flood plain or historic district issues and that the lot was a "grandfathered" undersized lot;
 - (c) as to one application, determining that there were no zoning, flood plain or historic district issues, and that a foundation permit only should issue; and
 - (d) as to the remaining five applications, made determinations that variances were needed.
 - Reviewed and approved 14 as-built plans involving her brother.
9. The Commission is not aware of any evidence that Bossi in reviewing and approving the matters described above caused a permit to issue to her brother which he was not otherwise entitled to receive.
10. Except as otherwise permitted, §19 of G.L. c. 268A prohibits a municipal employee from participating² as such an employee in a particular matter³ in which, to her knowledge, an immediate family member⁴ has a financial interest. None of the exceptions applies.

11. The various decisions Bossi made in reviewing her brother's applications and plans were each particular matters.
12. She participated in those particular matters as the inspector of buildings by personally making those decisions.
13. Bossi's brother was an immediate family member.
14. Her brother had a financial interest in each of the foregoing particular matters.
15. At the time of her participation in each particular matter, Bossi knew that her brother had a financial interest in the matter.
16. Accordingly, each time Bossi participated in the above-described particular matters, she violated §19.

In view of the foregoing violations of G.L. c. 268A by Bossi, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Bossi:

- (1) that Bossi pay to the Commission the sum of \$10,000⁵ as a civil penalty for violating G.L. c. 268A, §19,⁵ and
- (2) that Bossi waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

DATE: January 3, 2002

¹ Because of its statute of repose, the Commission is limited to actions that took place within the past six years. See 930 CMR 1.02(10).

² "Participate" means to participate in agency action or in a particular matter personally and substantially as a state, county or municipal employee, through approval, disapproval, decision, recommendation, the rendering of advice, investigation or otherwise. G.L. c. 268A, §1(j).

³ "Particular matter" means any judicial or other proceeding, application, submission, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, decision, determination, finding, but excluding enactment of general legislation by the general court and petitions of cities, towns, counties and districts for special laws related to their governmental organizations, powers, duties, finances and property. G.L. c. 268A, §1(k).

⁴ "Immediate family" means the employee and his spouse, and their parents, children, brothers and sisters. G.L. c. 268A, §1(e).

⁵ The size of the fine reflects, among other factors, that Bossi was notified by the Commission not to participate in matters involving her brother and she continued to be involved and did so by using a non-identifying mark rather than her initials as described above.